

BOBBY SHANE CHARLTON,  
Plaintiff,

v.

DR. GARTH GULICK, ROBERT WHITE,  
RN, DR. STEVEN SHELTON, COLETTE S.  
PETERS all in individual capacities,  
Defendants.

Case No. 2:16-cv-00126-MC

PLAINTIFF'S REQUEST FOR  
VOLUNTARY DISMISSAL  
UNDER FRCP RULE 41 a)

Plaintiff Bobby Charlton appears and requests that the court dismiss this action without prejudice under FRCP 41 a) for the following reasons:

About a year ago, plaintiff became aware of a number of cases being filed in US District Courts around the country demanding that the states provide their Hep-C infected inmate populations with Harvoni, the new FDA approved, highly effective treatment/ cure for the disease. These cases sought class actions and were based on inmate rights to standard medical treatment (as Harvoni is now) and the rights of both inmate populations and the general population not to be exposed to the Hep-C epidemic, estimated to affect over 3 million Americans and common in prison inmate populations.

Plaintiff sought to file such a class action in Oregon and contacted several of the attorneys involved in such cases in other states then requested appointed attorney from this court. To his surprise and dismay no such attorney was forthcoming so he amended his claim just to ask for a declaration of law that he be provided Harvoni upon any progression of his Hep-C infection (that he had contracted while in prison) or before release.


Since his filing, more news has become available about Hep C/Harvoni lawsuits. Currently there are at least 4 such represented inmate suits seeking class actions. At least

one other case (represented by ACLU and also a class action) seeks universal Medicaid coverage of Harvoni for Hep C; and another case is suing Gilead Sciences, the manufacturer of Harvoni, for predatory, socially irresponsible pricing policies and demanding a reduction in Harvoni prices. At this same time Merck and other firms are introducing competitive products at steeply lower prices than Harvoni.

During just the past few months there have been a number of US District Court opinions issued around the nation in regard summary judgment motions in pro-se inmate Harvoni claims agreeing on the following: Inmate medical claims are subject to the "deliberate indifference" standard rather than negligence or malpractice. It is not "deliberate indifference" to delay medical treatment IF SUCH DELAY DOES NOT RESULT IN IRREVERSIBLE WORSENING OF THE CONDITION OR UNNECESSARY PAIN.

At this point, plaintiff's situation seen solely (out of the context of the prison population/public health issue) would likely not meet this requirement hence it is likely futile for plaintiff to pursue his (emasculated) pro-se claim and hence voluntarily asks for an order of dismissal. Hopefully, success by plaintiffs in the other claims noted will obviate the need for further legal action but plaintiff wants to reserve the right to refile should he be able to retain an attorney for a class action or should his Hep-C condition worsen and he still be deprived of Harvoni.

Respectfully Submitted this June 6 2016

  
 Bobby Shane Charlton  
 c/o SRCI, SID# 11102064  
 777 Stanton Blvd.  
 Ontario OR 97914

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CERTIFICATE OF SERVICE

Plaintiff Bobby Shane Charlton certifies that he served true copy of PLAINTIFF'S  
REQUEST FOR VOLUNTARY DISMISSAL UNDER FRCP RULE 41 a) on attorney  
for defendants by mailing USPS such in sealed envelopes, first class postage affixed and  
fully prepaid to:

Shannon Vincent  
1162 Court Street NE  
Salem OR 97301

Executed This June 6 2016

  
Bobby Shane Charlton  
c/o SRCI, SID# 11102064  
777 Stanton Blvd.  
Ontario OR 97914